

242.1292 Limited sale precincts in cities of second class.

- (1) The provisions of this section shall be applicable in any city of the second class notwithstanding any other provisions of this chapter relating to the discontinuance of prohibition in any county, city, or territory which may be to the contrary.
- (2) In any city of the second class in which prohibition is in effect in all or part of the city, and upon a determination that an economic hardship exists in one (1) or more of the voting precincts of the city in the manner prescribed in subsection (11) of this section, the governing body of the city shall by ordinance designate the precinct or precincts as a limited sale precinct or precincts and shall provide for an election to be held in the precinct or precincts to take the sense of the people of each precinct as to the discontinuance of prohibition in that precinct.
- (3) The election shall be held in the precinct or precincts in the manner prescribed in this chapter. The election shall not be deemed to be an election in the "same territory" within the meaning of subsection (5) of KRS 242.030; however, no election on the same question shall be held in the same precinct or precincts more than once every five (5) years.
- (4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?"
- (5) If a majority of the votes cast in any limited sale precinct in which an election is held under this section are in favor of the sale of alcoholic beverages in that precinct, the governing body of the city shall by ordinance create or provide for the office of city alcoholic beverage control administrator.
- (6) The governing body of the city shall adopt the comprehensive regulatory ordinance covering the licensing and operation of establishments for the sale of alcoholic beverages, including, but not limited to, distilled spirits and malt beverages, within a limited sale precinct as set forth in this section. In relation to the ordinances established by a city of the second class under this subsection and subsection (7) of this section, review by the board, if any, shall be limited to a determination that the ordinances do not exceed the limits established for sale by statute, or administrative regulations promulgated by the board under those statutes. In its discretion the governing body shall provide without review by the board that:
 - (a) Only three (3) licenses permitting the package sale at retail of alcoholic beverages shall be granted within the territorial limits of any limited sale precinct.
 - (b) Only four (4) licenses to sell alcoholic beverages by the drink for consumption on the premises by the general public shall be granted in any one (1) limited sale precinct. One (1) license in each limited sale precinct may be reserved for any newly established hotel, motel, or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons. The remaining three (3) licenses may be granted to a hotel, motel, or inn meeting the aforesaid requirements or to bona fide restaurants open to the general public having dining facilities for not less than one hundred (100)

persons. Additional licenses to sell alcoholic beverages by the drink for consumption on the premises may be granted to social membership clubs established and maintained for the benefit of members of bona fide fraternal or veterans organizations.

- (7) The governing body of the city may also incorporate in the regulatory ordinance any other reasonable rules and regulations as it deems, necessary or desirable for the proper administration and enforcement of this section, for the maintenance of public order in a limited sale precinct, and for the issuance of any licenses permitted by KRS 243.070.
- (8) Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070, upon the discontinuance of prohibition in any limited sale precinct, the governing body of the city may impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city budget period at the percentage rate as shall be reasonably estimated to fully reimburse the city for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.
- (9) Subject to the limitation imposed by subsection (3) of this section, no provision contained in this section providing for the establishment of a limited sale precinct shall preclude or abridge the right of the constitutionally qualified voters of the precinct to petition for a subsequent election on the same question.
- (10) If an election is held pursuant to other provisions of KRS Chapter 242 in the city or the county in which a limited sale precinct is located for the purpose of taking the sense of the voters upon the question of adopting or repealing prohibition for the entire city or the entire county, the status of that question in a limited sale precinct shall be determined in the following manner:
 - (a) The status of a limited sale precinct shall not be affected by any election for the entire city or the entire county if the limited sale precinct was established less than five (5) years prior to the date of the proposed election for the entire city or the entire county and if so the voters of any limited sale precinct shall not vote in the election.
 - (b) If the limited sale precinct was established more than five (5) years prior to the date of the proposed election for the entire city or the entire county, the voters within each limited sale precinct shall be presented with the question, "Are you in favor of continuing the sale of alcoholic beverages in (official name and designation of precinct) as a limited sale precinct?" No other question shall be presented to the voters of any limited sale precinct.
 - (c) The votes of each limited sale precinct shall be counted separately, and, if a majority of the votes cast in the limited sale precinct are in favor of continuing the sale of alcoholic beverages therein as a limited sale precinct, then the status shall continue within the precinct, except that if the city or the county in

which the limited sale precinct is located votes against prohibition in the remainder of the city or the county, the limited sale precinct status of any precinct may be terminated by the governing body of the city or the county and thereafter the status of the precinct shall be the same as that in effect for the remainder of the city or the county.

- (11) Any precinct located entirely within any city of the second class in which prohibition is in effect in all or part of the city shall be designated as a limited sale precinct by the governing body of the city if:
- (a) The governing body determines to its satisfaction that the general trade, business, and economy of one (1) or more of the precincts within the city is substantially, adversely affected by the legal sale of alcoholic beverages in any neighboring or adjoining state, county, city, town, district, or precinct. For the purpose of making this determination, the governing body may hold hearings, examine witnesses, or receive evidence as it believes necessary or desirable for the purpose; or
 - (b) The governing body receives a petition signed by a number of constitutionally qualified voters of a precinct equal to thirty-three percent (33%) of the votes cast in the precinct at the last preceding general election requesting the governing body of the city to designate the precinct as a limited sale precinct. The petition may consist of one (1) or more separate units and shall be filed with the mayor of the city. In addition to the name of the voter, the petition shall also state his or her post office address and the correct date upon which his or her name is signed. Upon receipt of the petition, the mayor shall present it to the governing body of the city at its next regularly scheduled meeting and, after verifying that the petition is in compliance with the requirements of this section, the governing body shall forthwith by ordinance designate the precinct to be a limited sale precinct.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 121, sec. 6, effective July 15, 1998; and ch. 248, sec. 1, effective July 15, 1998. -- Amended 1982 Ky. Acts ch. 360, sec. 68, effective July 15, 1982. -- Created 1980 Ky. Acts ch. 80, sec. 1, effective July 15, 1980.

Legislative Research Commission Note (7/15/98). This section was amended by 1998 Ky. Acts chs. 121 and 248. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 248, which was last enacted by the General Assembly, prevails under KRS 446.250.